

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

PLATINUM JACK ENTERTAINMENT, LLC,

Plaintiff,

v.

ESPN, INC. AND CHICK-FIL-A, INC.,

Defendants.

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Platinum Jack Entertainment LLC (“Plaintiff” or “Platinum Jack”) files this Complaint against Defendants ESPN, Inc. (“Defendant” or “ESPN”) and Chick-Fil-A, Inc. (“Defendant” or “Chick-Fil-A”) for copyright infringement and alleges as follows:

PARTIES

1. Plaintiff is a Texas limited liability company with an office located at 1919 McKinney Avenue, Dallas, TX 75201.
2. On information and belief, Defendant ESPN is a company with a place of business located at 545 Middle Street, Bristol, CT 06010. On information and belief, ESPN also has a place of business in this Judicial District.
3. On information and belief, Defendant Chick-Fil-A is a privately held company with a place of business at 5200 Buffington Road, Atlanta, GA 30349. Chick-Fil-A also has numerous businesses located in this Judicial District.

JURISDICTION AND VENUE

4. This action arises under the copyright laws of the United States, 17 U.S.C. § 101, *et seq.* Plaintiff is seeking injunctive relief as well as damages, attorney fees and costs.
5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Copyrights).
6. The exercise of personal jurisdiction in Texas is proper because acts giving rise to Plaintiff's cause of action have occurred in Texas. More specifically, Defendants have committed acts of infringement in Texas, have conducted business in Texas, and/or have engaged in continuous and systematic activities in Texas.
7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1400(a).

FACTS

8. Plaintiff Platinum Jack is the owner of all rights and publishing in a musical composition entitled "Best I Had" (the "Infringed Composition") These rights include a performance of the work by the band Drayter that was registered with the United States Copyright Office. A printout of registration information from www.copyright.gov is attached hereto as Exhibit A.
9. In the Fall of 2017 it came to Platinum Jack's attention that the Defendants and/or their agents reproduced, synchronized, distributed, and/or publicly performed (and/or caused to be reproduced, distributed and or publically performed) a substantial portion of the Infringed Composition without Plaintiff's authorization in a televised commercial advertisement for Chick-Fil-A apparently entitled "ESPN: Hafftime Reeport, Featuring Joey Galloway" and "ESPN: Hurricane Harvey Relief, Featuring Joey Galloway (the Infringing Advertisements)". A sample of the Infringing Advertisements may be viewed at: <https://www.youtube.com/watch?v=OPQ3Vt-YS8k>

10. Defendants do not have any license, authorization, permission or consent to use the Infringed Composition.

COUNT ONE
Copyright Infringement

11. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 10, the same as if set forth herein.

12. This cause of action arises under the copyright laws of the United States and, in particular under 17 U.S.C. §§ 101, *et seq.* Through the conduct averred herein, Defendants have infringed Plaintiff's copyrights in the Infringed Composition in violation of 17 U.S.C. 501.

13. Defendants have had knowledge of their infringement, at least as of the delivery of a letter dated February 13, 2018.

14. Defendants acts of infringement are willful, and in disregard of Plaintiff's rights.

15. As a direct and proximate result of the infringement by Defendants, Plaintiff is entitled to damages in an amount to be determined at trial.

16. Plaintiff is also entitled to Defendants' profits attributable to the infringement pursuant to 17 U.S.C. 504(b).

17. Plaintiff is further entitled to its attorneys' fees and costs pursuant to 17 U.S.C. 505.

DEMAND FOR JURY TRIAL

18. Platinum Jack Entertainment, LLC, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

PRAYER

Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For damages in such amount as may be found, or otherwise permitted by law.

2. For all profits of Defendants attributable to their infringement of Plaintiff's copyrights in the Infringed Composition.
3. For a permanent injunction prohibiting Defendants, and their respective agents, servants, employees, officers, successors, licensees, and assigns, and all persons acting in concert or participation with each or any of them, from continuing to infringe Plaintiff's copyrights in the Infringed Composition.
4. For prejudgment interest according to law.
5. For Plaintiff's attorneys' fees, costs and disbursements in this action.
6. For such additional relief as the Court may deem just and proper.

Dated: April 10, 2018

Respectfully submitted,

/s/ Ross Cunningham

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